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IDEA-0162-61

Copy 1 of 10

11 FEB 1961

MEMORANDUM FOR: Director of Central Intelligence

THROUGH : Deputy Director (Plans)

SUBJECT : Compensation for Additional Work Performed by
Eastman Kodak Company under Contract EQ-1806

25X1A REFERENCES : a. Letter to DD/P from D/R&D Eastman Kodak Co.,
dated 15 August 1958 (CHAL-0303), (Attachment 1)
b. Letter to DD/P from [redacted]
dated 15 June 1960, (Attachment 2)
c. Memorandum to Acting Chief, DPD from
Director, Photographic Intelligence Center
dated 6 February 1961, (Attachment 3)
d. Memorandum to Acting Chief, DPD from
General Counsel dated 8 February 1961,
(Attachment 4)

1. This memorandum contains a recommendation for approval of the
Director of Central Intelligence. Such recommendation is contained in
paragraph 7 below.

2. The Eastman Kodak Company has requested (reference a.) an
additional payment beyond the contract ceiling price to cover costs
arising from additional work performed under Contract EQ-1806. This
contract was executed on 1 March 1956 and had a maximum fixed price
stated as [redacted]. The contract was one to provide the Agency
with a film processing facility at Rochester, N.Y. and two Minicard
installations at Washington, D.C. The present problem relates only
to the production of the two Minicard installations. The contract
was entered into in connection with the IDEALIST project.

25X1A 3. The Eastman books reflect a total cost for work done (without
allowance for profit) of [redacted]. After [redacted] audit at our
request and review by the DPD Contracting Officer, the latter has
determined that the Contractor incurred acceptable costs amounting at
least to [redacted]. Accordingly, there is no doubt that the Contractor
has incurred excess unreimbursed costs of at least [redacted]

SECRET

SECRET

IDEA-0162-61

Copy 1 of 10
Page 2

4. The Eastman Company requested (reference a.) an equitable adjustment under the provisions of the Changes Article of the contract. This request is strictly in accordance with the normal procedures of government contracting, and the General Counsel has concluded (reference d.) that the Contractor's claim is timely, properly asserted, and should be paid as recommended herein.

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5. The amount proposed for payment to Eastman has been very carefully considered. The Contractor provided two yardsticks (reference a.). He advised: (a) on a reproduction cost basis, the amount paid to date by the Government is [redacted] below such cost; (b) if settlement were made on a strictly cost-plus-fixed-fee basis, the Contractor should recover some [redacted]. A settlement of [redacted] in full payment to the Contractor is recommended by this memorandum, and our discussions with the Contractor lead us to believe that this payment would be satisfactory.

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6. The amount of the Government's proposed payment has been arrived at on the basis of our judgment as to the benefit received by the Government and the effort expended and costs incurred by the Contractor. In reaching this conclusion, the opinion of [redacted] who was close to the project from inception and is highly qualified from the technical standpoint, has been given much weight (reference b.). Other factors have affected the decision to recommend payment of [redacted] namely:

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(a) Although the Contractor worked with great diligence and at considerable personal expense (beyond the audited loss of over [redacted] discussed herein), Eastman was not able to attain the design goals established by agreement between the Contractor and the Government for the Minicard equipment produced under this contract. This led to misapprehension on the part of the Office of Central Reference and the Photographic Intelligence Center, for whom the two Minicard installations were originally intended, and their stated belief that the Contractor did not deserve a further payment since he had not fulfilled his specifications. As pointed out in the General Counsel opinion (reference d.), however, the Contractor fulfilled his duty by using his best efforts to achieve these goals, and he is entitled to an equitable adjustment in settlement of the costs actually incurred in that attempt. The proposed payment by the Government has been scaled down to [redacted] partly in recognition of the Contractor's inability to achieve his hoped-for objectives.

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SECRET

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IDEA-0162-61

Copy 1 of 10
Page 3

(b) At present both sets of Minicard machines have been assigned to and are in use in the Photographic Intelligence Center. They form an indispensable part of the equipment used by PIC in carrying out its mission, and while improvements in the state of the art can be visualized, for the next several years these machines will be required to perform an important role for PIC. The current opinion of the Director, PIC (reference c.) should be considered, in effect, as superseding the initial impressions of dissatisfaction expressed by OCR and PIC.

(c) The design goals for the Minicard equipment under this contract were established and revised on a number of occasions in the context of the urgency of time and the strict security attendant upon the inception of IDEALIST. The Agency knowingly required the Contractor to go well beyond the existing state of the art, and to proceed in good faith upon representations made by our officials which prevented the Contractor from employing normal business standards and procedures for contract administration. The Agency was aware that the Contractor was incurring an overrun of costs, but requested that he continue work and defer settlement of such costs until the conclusion of the contract (reference d.).

(d) The Deputy Director (Plans) is also in a position to express an opinion since he has followed the technical development of this equipment closely from the outset. His opinion is reflected in the recommendation below.

Recommendation:

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7. It is recommended that the Director approve the payment to Eastman Kodak Company in settlement of Contract EQ-1806 of not to exceed [redacted] Funds from Fiscal Years 1958 and 1959 are available to cover this additional work performed during those periods.

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[redacted]
STANLEY W. BEERLI
Colonel USAF
Acting Chief, DPD-DD/P

cc: DDCI

ATTACHMENTS:

- 1 - Reference a.
- 2 - Reference b.
- 3 - Reference c.
- 4 - Reference d.

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SECRET

IDEA-0162-61
Copy 1 of 10
Page 4

SUBJECT: Compensation for Additional Work Performed by Eastman Kodak
Company under Contract EQ-1806

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CONCURRENCES:

8 FEB 1961
Date

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DPD Comptroller

15 FEB 1961

RICHARD M. BISSELL, JR.
Deputy Director (Plans)

Date

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LAWRENCE R. HOUSTON
General Counsel

10 FEB 1961

Date

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L. K. WHITE
Deputy Director (Support)

16 Feb 61
Date

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Recc
Para

*CP
DDCI
(2/18/61)*

20 FEB 1961

Date

ALLEN W. DULLES
Director of Central Intelligence

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DPD/OGC: (8 February 1961)

Distribution:

Cy 1 - DPD/Contracts w/att. EQ Co. EQ-1806 Contract
2 - DCI w/o att.
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6 - DPD/OGC w/o att.
7 - DPD/RI w/o att.
8 - DPD/Comptroller w/o att.
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10 - DD/S w/o att.

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TRANSMITTAL SLIP		DATE 13 February 1961
TO: DD/P		
ROOM NO.	BUILDING	
REMARKS: This memo to the DCI makes the same recommendation as the one you signed some time ago (CHAL-1065), namely to pay EK [redacted] in full settlement. The memo was rewritten by me since Mr. Houston thought the original explanation and justification were inadequate. New attachments include a lengthy legal opinion supporting the proposed payment and a new letter of support from Art Lundahl to offset the negative technical reports made by OCR and PIC in 1959.		
FRC [redacted]		Assistant General Counsel, DPD/OGC
ROOM NO. 526	BUILDING 1717 H St.	EXTENSION 3316

FORM NO. 241
1 FEB 55REPLACES FORM 36-8
WHICH MAY BE USED.

* GPO : 1957 - O - 439445